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11 *Representing the United States of America*

12

13 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

14 United States of America,

15 Plaintiff,

16 v.

17 William Kacensky,

18 Defendant.

19 Case No. 2:16-CR-0151-JCM-GWF

20 GOVERNMENT'S MOTION TO
21 CONTINUE SENTENCING DATE AND
22 PROPOSED ORDER (Government's
23 Second Request)

24 The United States, by and through its counsel, STEVEN W. MYHRE, Acting
25 United States Attorney, District of Nevada, and Kimberly M. Frayn, Assistant
26 United States Attorney, moves for a continuance of the sentencing hearing, which is
27 currently scheduled for August 7, 2017, at 10:00 a.m to a date convenient to the
28 Court but not less than at least seven (7) days for the following reasons:

29 1. On or about June 9, 2017, the United States Probation Office issued a
30 revised Presentence Report (PSR) addressing the Defendant's informal objections

1 to the initial PSR. On or about June 15, 2017, the Defendant filed formal Objections
2 to the revised PSR, challenging the criminal history calculation (Doc. No. 41), and a
3 Sentencing Memorandum seeking a 24 month downward variance (Doc. No. 40).

4 2. The Government has reviewed the allegations contained in these
5 pleadings, and has commenced a follow up investigation, which is necessary so that
6 the Government can write an appropriate response prior to the Defendant's
7 sentencing hearing. The sentencing hearing is currently set August 7, 2017, at 10:00
8 a.m. Specifically, the defendant has filed formal objections to the PSR, contesting 6
9 criminal history points assigned by the United States Probation Office (PSR p.10,
10 para. 35) to convictions from the Berkshire Superior Court, Pittsfield MA, docket no.
11 03-0261. (Doc. No. 41). After reviewing the conviction records in US Probation's
12 possession, the Government requested some additional records relating to these
13 convictions from the Berkshire County Superior Court Clerk's Office at 76 East
14 Street Pittsfield, MA 01201. These records are necessary to complete the analysis of
15 whether all 6 points should be counted.

16 3. On Wednesday July 26, 2017, undersigned counsel was advised by the
17 Clerk of Court that the requested materials had been located in their archived files
18 was being forwarded by US mail on that same date. Government counsel will need
19 time to receive these records, analyse them, conclude any additional followup
20 research, if necessary, and file its response. Without the receipt of the requested
21 records, the Government will be prejudiced because it will be unable to complete the

analysis necessary to defend or concede the matter on the merits. Accordingly, a brief continuance of seven days is requested.

3 4. Undersigned counsel contacted Assistant Federal Public Defender
4 Rachel Korenblat, regarding the continuance, and the defense is not agreement
5 with the request. However, the Defendant is not in custody and remains at liberty
6 under Pretrial Services supervision pending sentencing. The brief requested 7-day
7 delay is reasonable and necessary to allow the Government sufficient time to
8 properly respond to the defendant's pleadings prior to sentencing. The defendant
9 will not be unduly prejudiced by this brief delay.

10 5. Consequently, the Government requests the sentencing in the instant
11 case be postponed for at least seven (7) days.

12 6. This is the Government's second request for a continuance of the
13 Defendant's sentencing.

14 || **DATED** this 27th day of June, 2017.

/s/Kimberly M. Frayn
KIMBERLY M. FRAYN
Assistant United States Attorney

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the United States Attorney's Office. A copy
3 of the foregoing was served upon counsel of record, via Electronic Case Filing (ECF).

4 DATED: July 27, 2017

5 / s / Kimberly M. Frayn

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7 KIMBERLY M. FRAYN
8 Assistant United States Attorney

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2 **UNITED STATES DISTRICT COURT**

3 **DISTRICT OF NEVADA**

4 United States of America,

5 Plaintiff,

6 v.

7 William Kacensky,

8 Defendant.

Case No. 2:16-CR-0151-JCM-GWF

ORDER

11 Based upon the stipulation of the parties, and good cause appearing therefore,

12 **IT IS HEREBY ORDERED** that the sentencing hearing currently scheduled for

13 August 7, 2017, at 10:00 a.m., be vacated and continued to August 17, 2017 at 10:00 a.m.

16 **DATED** August 2, 2017.

18 
19 JAMES C. MAHAN
20 United States District Judge